

ROUTING AND TRANSMITTAL SLIP		Date
		18 NOV 1985
TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. EXO/DDA		11/16
2. ACTING ACDA		11.17
3. DDA		9 NOV 1985
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5. DDA Reg-feli		
Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

CC: C/PSD/OS
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FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
	Phone No.

5041-102

* U.S.G.P.O.: 1983-421-529/320

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

Central Intelligence Agency



Washington, D.C. 20505

85-3843/5

14 November 1985

OLL85-3291/3

Mr. James M. Frey
Assistant Director for Legislative
Reference
Office of Management and Budget
Washington, D.C. 20503

10-1

Dear Mr. Frey:

This is in response to your request for Agency comments on a State Department draft bill providing for the security of United States Government personnel abroad. While the Agency appreciates the purpose of the draft bill, it has some serious concerns with certain provisions of this proposed legislation. These concerns are described more fully below.

The first area of Agency concern is with the intended scope of this bill and its possible impact on day-to-day Agency overseas activities. The broad nature of the responsibilities set forth in Section 101 could be construed to suggest that the State Department is now responsible not only for the physical protection of Agency personnel, but also for the security of Agency operational activities. Ultimate responsibility for such Central Intelligence Agency (CIA) activities must, of course, reside with the Agency in order for the Agency to effectively and efficiently carry out its assigned responsibilities and mission. In order to avoid confusion concerning the Director of Central Intelligence's responsibilities and authorities in this area, we would suggest the addition of a new subsection 101(f):

- (f) Nothing contained herein shall be construed to effect the Director of Central Intelligence's existing security responsibilities for CIA personnel, information or activities. Consistent with such authorities and responsibilities, the CIA shall cooperate with the Department of State as provided in subsection (b).

The Agency also has significant problems with the system of Accountability Review Boards (ARB) that is created under the bill. We have a general concern with this entire ARB process since we are unconvinced that this type of finger-pointing and blame attribution will significantly advance the cause of diplomatic security abroad or at home. The time, money and effort devoted to any ARE-like process might be better spent on

physical security improvements and/or enhanced counterintelligence collection. In addition, the operation of these boards under the Administrative Procedures Act and the creation of a right to judicial review of the administrative record of these proceedings will result in potentially sensitive intelligence information becoming the subject of civil litigation in the courts. This inevitable public airing of overseas security matters is in total conflict with the secrecy and stringent security requirements needed by the Agency to undertake its overseas mission.

Beyond our general objection to this ARB process, the Agency has some specific problems concerning the operation of these boards as provided in the draft legislation. There is no expressed provision in the bill requiring the members and staff employees of, and detailees and consultants to, the ARB to hold security clearances at any level. We believe such a provision should be included. In addition, Section 208, which addresses reports to Congress of ARB recommendations, does not, but should, make express provision for the protection of classified and similar sensitive information in this reporting process. Finally, we assume that Sections 101(b) and 202(b) cannot be interpreted to compel the Agency to supply resources or personnel to the Bureau of Diplomatic Security or the ARB on a non-reimbursable basis.

In sum, the Agency is opposed to this ARB process. If a decision is made to include this system in the bill, the Agency believes that, in order to avoid confusion concerning a derogation of existing Director of Central Intelligence (DCI) authorities, a new Section 211 is needed to protect sensitive CIA activities and information while ensuring that Agency employees are subject to this same type of review:

Section 211. Notwithstanding any other provision of this Act, the personnel, activities, and information of the Central Intelligence Agency shall not be subject to the authority or jurisdiction of any Accountability Review Board convened pursuant to this title. Any case involving the Central Intelligence Agency which would otherwise require that an Accountability Review Board be convened pursuant to this title shall be reviewed by a task force specifically designated by the Director of Central Intelligence for appropriate action and the Director of Central Intelligence shall transmit a copy of such findings and conclusions to the President.

Finally, Section 301 provides substantial appropriations to the Department of State to implement this improved overseas security program. No definitive allocation of these monies is provided for in the bill. While the Agency supports this increased funding, it wishes to note that the undertaking of a program of this magnitude has obvious resource and other implications for Agency overseas activities which should be accommodated in this bill.

Given the Agency's substantial concerns with this State Department draft bill, we would appreciate being apprised of any decisions or further developments that are made with respect to this legislation. Please contact either me or [redacted] of my office [redacted] if you require further assistance or information on this bill.

Sincerely,

[redacted]

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Charles A. Briggs
Director, Office of Legislative Liaison

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Distribution:

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Original - Addressee (hand carried to OMB)

1 - Office of Comptroller/D. Childs

1 - DDA [redacted]

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1 - D/OP

1 - D/OS

1 - General Counsel

1 - OGC [redacted]

STAT

1 - OGC [redacted]

1 - Counsel/DDO [redacted]

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1 - OLL/LEG:Subject - Diplomatic Security

1 - [redacted]/Signer

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1 - [redacted]/Signer

OLL/LEG: [redacted] (14 Nov 85)

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DDA 85-3843/3
12 November 1985

MEMORANDUM FOR: Deputy Chief, Legislative Division,
Office of Legislative Liaison

FROM: Harry E. Fitzwater
Deputy Director for Administration

SUBJECT: Department of State Draft Bill Providing Security
for U.S. Diplomatic Personnel, Facilities and
Operations

REFERENCE: Memorandum for Multiple Addressees from DC/LD/OLL,
dated 30 October 1985, Same Subject

1. The Office of Security [redacted] Deputy Chief, Physical Security Division/OS advised that [redacted] Chief, Physical Security Division/OS, had telephoned late last week advising you that the Office of Security had no objection to the referenced draft bill provided that a provision is added to this bill stating that "nothing in this Act shall be construed to limit the authority of the Director of Central Intelligence under the National Security Act of the Central Intelligence Agency Act of 1949."

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2. The Office of Personnel's response which has some more specific questions is attached. Their response is in general agreement with the DDA and the Office of Security position stated in paragraph one above.

3. We are working as rapidly as possible on our funding needs for FY 1986 and FY 1987 which will permit us to work in concert with the Department of State's program set forth in this draft bill. We will submit a follow-up letter with our detailed resource requirements prior to the end of November.

[redacted]
Harry E. Fitzwater [redacted]

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Attachment:
As Stated

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ORIG:EXO/DDA: [] (12 November 1985)

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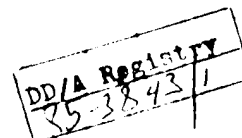
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MEMORANDUM FOR: O/DDA ATTN:

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FROM:

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 Chief, Physical Security Division
 Office of Security

SUBJECT: Development of an Agency Supplemental Budget Initiative

1. In order to properly and quickly assess the potential impact of the "Inman" initiative on Agency resources the DDA has requested the undersigned task affected components to examine the State Department supplemental proposal and respond to the question "What normally provided Agency support is a) covered, b) not covered, or c) not reflected as covered or not covered in the State supplemental request?"

2. The basic area under review for this purpose is a multi-year effort to fund the construction or rehabilitation of the total of 111 overseas facilities for an estimated \$3 billion. These efforts are broken down as follows:

	<u>FY86</u>	<u>FY87</u>	<u>FY88</u>	
° Critical Construction Projects	20	19	6	
° Accelerated Construction Projects	24	-	-	
° High Priority Security Projects	9	4	2	
° Major Rehabilitation Projects	<u>-</u>	<u>-</u>	<u>27</u>	
Totals	53	23	35	= 111

3. Attached for assistance in identifying Agency needs in these programs are copies of the section of State's supplemental that provides further details of the new building/rehabilitation program.

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4. Addressees should attempt to identify specific Agency costs associated with the above mentioned efforts and determine through established liaison channels, whether any funding for these items is contained within the State submission. Please contact [] Deputy Chief, Physical Security Division on [] prior to 14 November 1985 for any further information of this request.

5. It is also requested that addressees meet for a review of this matter on 15 November 1985 at 11:00 a.m., []

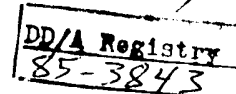
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30 October 1985DDA SUBJECT FILE COPY
10-1

MEMORANDUM FOR DDO
DDI
→ D/Pers
DD/OP/PA&E
→ DOS
NIO/CT/NIC
DC/ICLD/OGC
DC/ALD/OGC

FROM:

[Redacted]
DC/LD/OLL

STAT

SUBJECT: ~~Dept. of State draft bill providing security~~
for U.S. diplomatic personnel, facilities and
operations

1. Attached for your review and comment is draft legislation by the State Dept. to provide for the security of United States diplomatic personnel, facilities and operations. This legislation is based on the recommendations of the Secretary of State's Advisory Panel on Overseas Security, commonly referred to as the Inman Commission.

2. Called the "Diplomatic Security Act," this legislation would set forth the responsibility of the Secretary of State respecting the security of diplomatic operations at home and abroad. Next, it would give the Secretary the authority to convene Accountability Review Boards to investigate loss of life or property destruction at U.S. missions. Finally, it authorizes more than \$4 billion to fulfill security related responsibilities of the Secretary.

3. In view of the broad authority given to the Secretary of State under the bill, there may be a significant impact on Agency equities. For example, the extent to which the provisions of bill conflict with the Agency's counter-terrorism mandate or security functions (Sections 101, 102 and 103). Should Agency personnel be subject to the disciplinary provisions of the Accountability Review Boards (Sections 203-207)? To what extent is the DCI obliged to cooperate with the Secretary of State (Section 101(b))? Should a provision be added to the bill stating that that "nothing in this Act shall be construed to limit the authority of the Director of Central Intelligence under the National Security Act or the Central Intelligence Agency Act of 1949"?

4. So that we may provide a timely reply to the Office of Management and Budget, please give us your oral or STAT
written response by November 6, 1985.

Attachments
as stated

STAT

Distribution:

Original - Addressee(s)

1 - D/OLL

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1 - OLL Chrono

1 - OLL/LEG Subject

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OLL/LEG: (30 Oct 85)

STAT

UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

October 25, 1985

Dear Mr. Miller:

Enclosed is a draft bill to provide for the security of United States diplomatic personnel, facilities and operations, and for other purposes.

In June of this year the Secretary of State's Advisory Panel on Overseas Security, chaired by Admiral Bobby R. Inman, concluded its work and issued its Report. The Report contained ~~91 recommendations designed to strengthen the Department of State's security program to meet the difficult challenges posed by terrorism directed at diplomatic personnel, facilities and operations.~~ This draft bill is based upon the Report and recommendations of the Advisory Panel.

The proposed legislation contains three principal features.

First, it sets forth the responsibility of the Secretary of State with respect to the security of diplomatic operations at home and abroad. It also provides for the Bureau of Diplomatic Security of the Department of State to be headed by an Assistant Secretary of State and sets forth certain provisions relating to the Diplomatic Security Service of the Department of State.

Second, the proposed legislation calls for the Secretary of State to convene Accountability Review Boards to investigate incidents involving serious injury, loss of life or

The Honorable
James C. Miller, III,
Director,
Office of Management and Budget.

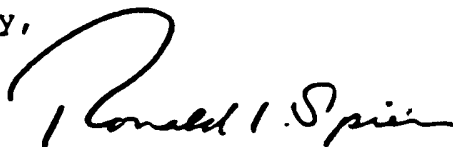
- 2 -

significant destruction of property at or related to United States Government missions abroad (than than military installations). As part of the accountability review process, the board convened in response to an incident would not only make findings and recommendations relating to security generally; it would also determine whether, and in what ways, a breach of duty by an individual employee contributed to the incident, and it would make appropriate disciplinary recommendations. The employee concerned would have the benefit of a full hearing and the procedural protection afforded by the Administrative Procedure Act.

Third, the proposed legislation provides an authorization of appropriations in the amount of \$520,828,000 for Fiscal Year 1986, \$420,625,000 for Fiscal Year 1987, and \$3,177,441,000 without fiscal year limitation, to enable the Department to fulfill its security-related responsibilities. The amounts ~~authorized for Fiscal Years 1986 and 1987 are for Salaries and Expenses.~~ The amount authorized without fiscal year limitation is for the substantial building program which was recommended by the Advisory Panel as necessary to ensure an adequate level of security for United States Government employees and missions abroad.

With best wishes,

Sincerely,



Ronald I. Spiers

Enclosure: Bill and Analysis.

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